

FOR INFORMATIONAL USE ONLY
COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 01-MSRC-002

**COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF MINES AND MINERALS**

COMPLAINANT

v.

**CHARLES HENSLEY, LARRY ISON,
JAMES HELTON, LAWRENCE VANOVER,
ET AL**

RESPONDENTS

FINAL ORDER REGARDING RESPONDENT JAMES HELTON

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant and Respondent James Helton, and the members of the Commission having reviewed the Settlement Agreement filed on October 24, 2002 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY ORDERED as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The Respondent, James Helton's Electrician's Certificate, # HN-***-**, issued by the Commonwealth of Kentucky, shall be revoked for a period of five (5) years, effective October 24, 2002;
3. Pursuant to the terms of the Settlement Agreement, the Respondent, James Helton, has agreed that if he wants to become a certified electrician in the Commonwealth of Kentucky after the expiration of said

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revocation period, he must re-take and pass the Kentucky electrician's examination, prior to re-applying to the Kentucky Mining Board for an electrician's certificate;

4. The Respondent, James Helton, shall turn over his electrician's certificate to a representative of the KDMM on or before October 25, 2002, at a time and place to be arranged by the parties;

5. The Settlement Agreement signed by the parties and filed with the Commission shall be incorporated by reference and attached hereto;

6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, James Helton, in this matter. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission. Pursuant to KRS 351.194(8), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of an order.

Entered this _____ day of November 2002.

BAYARD V. COLLIER, CHAIR
MINE SAFETY REVIEW COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER REGARDING RESPONDENT JAMES HELTON was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this _____ day of November 2002:

HON. OTIS DOAN, JR., P.S.C.
117 N. FIRST STREET
HARLAN KY 40831-2315
Attorney for James Helton

And by regular mail, postage pre-paid to:

HON. SUSAN C. LAWSON
LAWSON & LAWSON, P.S.C.
WHEELER BUILDING, STE. 301
P.O. BOX 837
HARLAN KY 40831
Attorney for Charles Hensley

HON. BILLY R. SHELTON
JONES, WALTERS, TURNER & SHELTON, PLLC
151 N. EAGLE CREEK DRIVE
ONE FOUNTAIN PLAZA, STE. 101
LEXINGTON KY 40509
Attorney for Larry Ison

HON. PAUL F. FAURI
232 ST. CLAIR STREET
P.O. BOX 1304
FRANKFORT KY 40602
Attorney for Lawrence Vanover

HON. STEPHEN A. SANDERS
APPALACHIAN CITIZENS LAW CENTER, INC.
207 W. COURT STREET, STE. 202
PRESTONSBURG KY 41653
Attorney for Thelma Campbell

And by messenger mail to:

COMMISSIONER FRANK DELZER

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DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

HON. TONY OPPEGARD
GENERAL COUNSEL
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

And the original shall be kept on file:

MINE SAFETY REVIEW COMMISSION
132 BRIGHTON PARK BLVD.
FRANKFORT KY 40601

DIANE SCHULER FLEMING
GENERAL COUNSEL
MINE SAFETY REVIEW COMMISSION

KENTUCKY MINE SAFETY REVIEW COMMISSION

KENTUCKY DEPT. OF MINES & MINERALS))
Complainant)
v.) Administrative Action No. 01-MSRC-002
)
CHARLES HENSLEY, LARRY ISON,)
JAMES HELTON & LAWRENCE VANOVER)
Respondents)
)

SETTLEMENT AGREEMENT BETWEEN KDMM & JAMES HELTON

Come the Complainant, the Kentucky Department of Mines & Minerals (“KDMM”), and Respondent James Helton (“Helton”), through their respective counsel, and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the dismissal of this action against him, Helton hereby agrees to the **REVOCATION OF HIS ELECTRICIAN’S CERTIFICATE (HN-***-**) FOR A PERIOD OF FIVE (5) YEARS**, effective upon the signing of this Settlement Agreement by both parties. Helton shall turn over his electrician’s certificate to a representative of the KDMM on or before October 25, 2002, at a place and time to be arranged by the parties. Helton further agrees that if he wants to become a certified electrician in the Commonwealth

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of Kentucky after the expiration of said revocation period, he will have to re-take and pass the Kentucky electrical examination prior to re-applying to the Kentucky Mining Board for an electrician's certificate.

Helton also agrees that this Settlement Agreement, and any final order issued herein by the Mine Safety Review Commission ("the Commission"), will be considered by the Commission to constitute a "first offense", as that term is defined at 805 KAR 8:010, Section 1 (5); and that any future adjudication against him by the Commission will be deemed a "subsequent offense" as defined at 805 KAR 8:010, Section 1 (13). However, for the purpose of liability in any civil proceeding other than this action before the Commission, Helton denies any violation of the law.

The parties state that they have carefully read and considered this Settlement Agreement prior to signing the Agreement, and that they understand and agree to its terms and provisions. KDMM and Helton acknowledge that there are no other promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.

JAMES HELTON

Lynch, Kentucky *****

FRANK X. DELZER,
Commissioner
Kentucky Dept. of Mines &
Minerals
P.O. Box 2244
Frankfort, Kentucky 40602

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DATE

DATE

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement was mailed this —— day of October, 2002, to Otis Doan, Jr., Attorney-at-Law, 117 North First Street, Harlan, Kentucky 40831.

TONY OPPEGARD
General Counsel

KENTUCKY DEPT. OF MINES & MINERALS